



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

September 16, 2004

Mr. L.D. Shank
P.O. Box 634
Odessa, DE 19730

RE: PLUS review – PLUS 2004-08-09; Bay Village of Dover

Dear Mr. Shank:

Thank you for meeting with State agency planners on September 1, 2004 to discuss the proposed plans for the Bay Village of Dover project to be located on White Oak Road and Long Point Road, east of SR1 in the City of Dover.

According to the information received, you are seeking a site plan approval through the City of Dover for a planned neighborhood development Senior Citizens Option to develop a 505 unit subdivision consisting of a continuing care retirement community, retail establishments, medical offices, restaurants, and a church and/or temple.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as the City of Dover is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the City.

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact: David Edgell 739-3090

This project represents a major land development application that will result in more than 500 residential units and 125,000 square feet of commercial space East of Route 1 in the City of Dover. This project is located in Investment Levels 2 and 3 according to the June 3 version of the 2004 State Strategies for Policies and Spending, which has been approved by the Cabinet Committee for State Planning

Issues. Although areas located in Investment Level 2 are typically seen as favorable for new development and State Investments by the State Strategies, the project's location East of State Route 1 is of particular concern.

It is the State's policy to discourage new growth East of State Route 1. Starting with the historic Coastal Zone Act, State actions have encouraged natural resource and agricultural preservation rather than growth and development in this area of Kent County. Tens of millions of dollars have been spent by the State and Federal governments and by private conservation organizations to protect and preserve the natural environment and sustain a vibrant agricultural area that occupies some of the best farmland in the State.

Our office would like to further note that the City of Dover is party to a Memorandum of Understanding dated April 13, 1999 between the State, the City and the County. This MOU originated due to the events surrounding the State allocating funding to purchase the Garrison Tract for economic development purposes (at the time it was proposed to be a computer chip manufacturing plant). Understanding that the location of this parcel was East of SR1, and that the location of a major economic development site in this area would impact our long standing policy regarding development East of Route 1 the MOU was developed. The purpose of the MOU was to articulate the understanding and desire among all parties that the Garrison Tract would be the only developed area East of Route 1. Towards this end, all parties agreed to not extend utilities to any project East of Route 1 unless all jurisdictions updated their plans to indicate that such an extension is desirable. The MOU also obligates the City of Dover to "strongly adhere to the existing comprehensive plan and zoning designation for the remaining areas east of SR1 which support agricultural uses and low density development." Our office considers this proposal to be inconsistent with the current MOU.

In addition, our office considers this project to be inconsistent with land use plan, goals and intent of the City of Dover's Comprehensive Plan as certified by the State. The area in question is designated "Active Agriculture" in Dover's plan. The Land Development Plan, pages 152 – 153 describes the goal for agricultural land uses in Dover as follows:

"To support the continuation of existing active agricultural uses as a viable and important component of the land use and open space mix in Dover, especially where agricultural lands form logical transitions between developed areas in the City and rural, agricultural areas in the County."

This section goes on to indicate that the City will follow the policies of evaluating the impact of new development on active farming operations (especially those which are in the farmland preservation program, such as the adjacent parcel to this application) and collaborate with the County and the State regarding agricultural preservation on the periphery of the City. In addition, pages 161 - 162 in the Growth and Annexation

Plan chapter further detail the unique characteristics of the lands East of State Route 1, notes the terms of the MOU, and again signal that the City is willing to collaborate with the County and the State to determine “the best strategy for land use and infrastructure investments in this area.”

This development is being considered as a conditional use application through existing City ordinances. Through our existing MOU and the certification of Dover’s plan the State has felt secure that the City’s intent was to continue the agricultural uses East of Route 1, and to work collaboratively with the State and County should that need to be reconsidered. By copy of this letter to the City, we are strongly encouraging the City to follow the goals and intent of their certified comprehensive plan and deny this project as inconsistent with that plan and the MOU. As I am sure you are aware, certified comprehensive plans are law and any deviation may put the City of Dover in the position of being out of compliance with Del. Code.

Delaware Economic Development Office – Contact: Gary Smith 739-4711

These comments are in reference to the project related to a proposed active adult community in the City of Dover with a combination of a nursing home, mid-rise apartments, 500 units of single family bungalow houses and 125,000 square feet of commercial development to support the home owners and residents of the community. The project is in an area that has been designated as a Limited Growth Area by the State of Delaware. The City of Dover and Kent County comprehensive plans have respected this policy and have designated this area as agricultural. This combination of support will protect growth in the area east of SR 1 from premature sprawling development. In a Memorandum of Understanding (MOU) dated April 13, 1999 the State of Delaware, Kent County and the City of Dover agreed to promote the Garrison Tract (Garrison Oak Technology Park) as the only development in this area.

The Delaware Economic Development Office feels that this project is not appropriate for this location based on the Livable Delaware program limiting development east of State Route 1. The increased vehicle trips of 4,621 that this development will create have the potential to strongly impact the road system in a negative way. Due to the above mentioned MOU and the Livable Delaware guidelines the State of Delaware has limited infrastructure dollars for the local roads and these funds are to accommodate the Garrison Oak Technology Park. The Delaware Department of Transportation has agreed to a dedicated roadway from the Garrison Oak Technology Park to Route 8 for access on to Route 1 and it appears that this active adult community project will be constructed on that proposed roadway site. Our office does not have housing expertise related to adult communities however DEDO does not believe that it is suitable to be developed across the street from a 415 acre high-technology business park. The technology business park is proposed to employ thousands of people and with the limited infrastructure in this area we believe that all of the infrastructure capacity needs to be dedicated solely to the park.

State Historic Preservation Office (SHPO) – Contact: Anne McCleave 739-5685

The State Historic Preservation office does not favor this proposal because it is east of Route 1. In terms of historic and cultural resources, they especially do not favor this proposal because it is located adjacent to properties listed in the National Register of Historic Places as part of the Little Creek Hundred Rural Historic District. These properties are located east and south of the subject property. The proposed project is also encroaching on this historic district in whole, which is historically significant because of the rural and agricultural contexts. If the subject property is developed as proposed, the rural and agricultural contexts will be diminished, resulting in a diminution of the historic district's significance.

There is a high probability for prehistoric and historic archaeological sites within the subject property. In addition to the existing structure, there was a house and other outbuildings existing on the subject property at one time. If there is any federal involvement with the project, in the form of permits, licenses, or funds, the federal agency must comply with Section 106 of the National Historic Preservation Act and consider the effects the project will have on historic and cultural resources.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

Because the proposed development is located east of Delaware Route 1, it is inconsistent with the 1999 Garrison Tract Memorandum of Understanding, which discourages growth east of SR 1. Therefore, since DelDOT is opposed to this development, they will not participate in the cost of any road improvements needed to support this development. The comments that follow are technical, and are not intended to suggest that DelDOT supports this development proposal.

- 1) DelDOT will require a traffic impact study (TIS) for this project. By copy of this letter to the City of Dover, DelDOT is recommending that the City postpone action on the record plan for the project until they have DelDOT comments on a completed TIS. If their decision on the rezoning depends in part on traffic conditions, i.e. levels of service, they should also defer action on the rezoning.

When you are ready to proceed with the TIS, you need to have your traffic engineer contact Bill Brockenbrough to set up a scoping meeting for the TIS. It is recommended that they do so soon. Presently, the completion and review of an average TIS in Delaware takes over a year.

- 2) All three of the proposed entrances have limited sight distance. If they have not already done so, it is recommended that you have your engineer check sight distances at these locations and revise the plan as necessary. They should anticipate being required to submit sight distance analyses as part of the entrance plan process.

- 3) DelDOT is in agreement with the comment made by Mr. Robert Ehemann of the Division of Parks & Recreation during the meeting regarding the need for sidewalks.
- 4) While the State would hope that the surrounding areas do not develop, it is recommended that a stub street to the south, on the west side of the Little River be provided.
- 5) When the Garrison Oak Technology Park was being planned, DelDOT did some preliminary engineering for a service road that would connect the Park to the partial interchange at North Little Creek Road. The proposed retirement community would occupy the land where part of that service road would be located and therefore conflicts with the intent of that plan.
- 6) The developer's site engineer should contact the DelDOT project manager for Kent County, Mr. Brad Herb of Johnson, Mirmiran & Thompson, regarding our DelDOTs requirements with regard to the design of the site entrances. Mr. Herb may be reached at (302) 266-9080.

**The Department of Natural Resources and Environmental Control – Contact:
Kevin Coyle 739-3091**

The Department has noted that they do not support development east of SR-1. The comments that follow are technical, and are not intended to suggest that DNREC supports this development proposal.

Soils

According to the Kent County soil survey, Matapeake, Matapex, Othello, and Johnston were mapped in the immediate vicinity of the proposed construction. Matapeake is a well-drained upland soil that has few limitations for development. Matapex is a moderately well-drained soil of low-lying uplands that has moderate limitations for development. Othello is a poorly-drained wetland associated (hydric) soil that has severe limitations for development. Johnston is a very poorly-drained soil associated with floodplain wetlands (hydric).

Wetlands

Statewide Wetland Mapping Project (SWMP) maps indicate the presence of palustrine forested, scrub-shrub and emergent wetlands on this site.

Impacts to Palustrine wetlands are regulated by the Army Corps of Engineers through Section 404 of the Clean Water Act. In addition, individual 404 permits and certain Nationwide Permits from the Army Corps of Engineers also require 401 Water Quality Certification from the DNREC Wetland and Subaqueous Land Section and Coastal Zone

Federal Consistency Certification from the DNREC Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process.

Because there is strong evidence that federally regulated wetlands exist on site, **a wetland delineation, in accordance with the methodology established by the Corps of Engineers Wetlands Delineation Manual, (Technical Report Y-87-1) should be conducted. Once complete, this delineation should be verified by the Corps of Engineers through the Jurisdictional Determination process.**

To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting. These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting. Contact Denise Rawding at (302) 739-4691 to schedule a meeting.

It is important to note that both DNREC and Army Corps of Engineers discourage allowing lot lines to contain wetlands to minimize potential cumulative impacts resulting from unauthorized and/or illegal activities and disturbances that can be caused by homeowners.

Vegetated buffers of no less than 100 feet should be employed from the edge of the wetland complex and other waterbodies on site.

It is further recommended that the Farm Services Agency of the USDA be contacted to assess whether the farmed wetlands on subject parcel meet the recognized criteria for classification as “prior converted wetlands.” Prior converted wetlands are farmed wetlands that have drained or altered before December 23, 1985, and no longer meet the wetland criteria established under the 404 program. Such wetlands are considered exempt from regulatory protection provided that there is no proof of a continuous “fallow period” of five years or greater in that parcel’s cropping history. Parcels converted after said date regardless of cropping history are considered jurisdictional by the Army Corps of Engineers (ACOE). The contact person for assessing a parcel’s cropping history is Sally Griffin at the USDA – she can be reached at 678-4182.

It should also be noted that this parcel contains sensitive headwater riparian wetlands associated with the Herring Branch and the Little River. Headwater riparian wetlands and their associated streams are important for the protection of water quality and the maintenance/integrity of the ecological functions throughout the length of the stream, including the floodplain system downstream. Since headwater streams are a major avenue for nutrient-laden stormwater and sediment runoff, their protection deserves the highest priority. **In recognition of this concern, the Department strongly recommends that the applicant preserve the existing natural forested buffer adjacent to the Herring Branch and the Little River in its entirety. Efforts to maximize or expand the existing natural buffer width via planting of native woody or herbaceous vegetation beyond above-referenced minimum, is further recommended.**

Stormwater Management

Requirements:

Source: Delaware Sediment and Stormwater Regulations

1. Land disturbing activities in excess of 5,000 square feet are regulated under the Delaware Sediment and Stormwater Regulations. A detailed sediment and stormwater management plan must be reviewed and approved by our office prior to any land disturbing activity (i.e. clearing, grubbing, filling, grading, etc.) taking place.
2. The review fee and a completed Application for a Detailed Plan are due at the time of plan submittal to our office. Construction inspection fees based on developed area and stormwater facility maintenance inspection fees based on the number of stormwater facilities are due prior to the start of construction. Please refer to the fee schedule for those amounts.
3. Ease of maintenance must be considered as a site design component and a maintenance set aside area for disposal of sediments removed from the basins during the course of regular maintenance must be shown on the Record Plan for the subdivision.
4. All drainage ways and stormdrains should be contained within drainage easements and clearly shown on the plan to be recorded by Kent County.
5. A soils investigation supporting the stormwater management facility design is required to determine impacts of the seasonal high groundwater level and soils for any basin design.

Comments:

1. The northeastern, southeastern and western portions of this site contain Othello soils based on the Soil Survey for Kent County prepared by the USDA Soil Conservation Service. The Othello soil series consists of poorly drained, slowly permeable silty soil. Othello soils have severe limitations for most community development and recreational uses such as: basements, roads, and lawns. The site also contains large areas of Mattapex Silt Loam and Johnston Silt Loam. Johnston soils are black, very poorly drained, moderately permeable soil found in bottomlands. Flooding varies from very frequent to occasional and has severe limitations for all community development and recreational uses. Mattapex Silt Loam is moderately well drained, has severe limitations for septic tank disposal fields and moderate limitation for general community development.
2. Based on the large areas of poorly drained soils on this site, significant attention will be needed to provide proper drainage of all developed lots and active open space.
3. Ground water levels are expected to be high based on the soil types present limiting the depth of available storage of stormwater basins. The result of limited storage depth may be very shallow stormwater basins with excessively large footprints requiring more area to be dedicated to stormwater management than is currently shown.
4. A drainage feature appears to run in the area of the mapped Johnston soils leading to the rear of the subdivision of Oak Shadows. If this water way is to be relocated or piped, it must be done so as to not block or impend the drainage of Oak Shadows Subdivision.

5. This project is located in the White Oak Tax Ditch. The tax ditch has recorded rights-of-way associated with it. Those rights-of-way must be shown on the plan.
6. The preferred methods of stormwater management are those practices that maximize the use of the natural features of a site, promote recharge and minimize the reliance on structural components.
7. It is recommended that the stormwater management areas be incorporated into the overall landscape plan to enhance water quality and to make the stormwater facility an attractive community amenity.
8. A letter of no objection to recordation will be provided once the detailed Sediment and Stormwater Management plan has been approved.
9. Based on the site characteristics, a pre-application meeting will be required to discuss stormwater management and drainage for this site.

TMDLs

Although Total Maximum Daily Loads (TMDLs) as a “pollution runoff mitigation strategy” to reduce nutrient loading have not yet been developed for most of the tributaries or subwatersheds of the Delaware Bay watershed to date, work is continuing on their development. TMDLs for the Leipsic and Leipsic River subwatershed, of which this parcel is part, are scheduled for completion in December 2006.

Therefore, until the specified TMDL reductions and pollution control strategies are adopted, it shall be incumbent upon the developer to employ best available technologies (BATs) and/or best management practices (BMPs) as “methodological mitigative strategies” to reduce degradative impacts associated with development.

Water Supply

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-3665.

Water Resource Protection Areas

The majority of this site is located in a wellhead protection area for City of Dover Water (see map). Wellhead protection areas are surface and subsurface areas surrounding a public water supply well where the quantity and quality of groundwater moving toward such wells may be adversely affected by land use activities. According to the State law that created the Source Water Protection Program, county and municipal governments will be required to enact ordinances to protect Water Resource Protection Areas. The following language has been excerpted from the draft Source Water Protection Guidance Manual for Local Governments, Supplement 1 - Ground-Water Recharge Design Methodology. While the language is currently draft and the local ordinances are not yet in place, the developer may find the language useful in modifying the site plan to protect the excellent recharge area.

Water Resource Protection Areas (WRPAs) are defined as (1) surface water areas such as floodplains, limestone aquifers, and reservoir watersheds, (2) wellhead areas, or (3) excellent recharge areas. The purpose of an impervious cover threshold is to minimize loss of recharge and protect the quality and quantity of ground and surface water supplies in WRPAs.

New development in WRPAs may exceed the 20 % impervious cover threshold, but be no more than 50 % impervious, provided the applicant submits an environmental assessment report recommending a climatic water budget and facilities to augment recharge. The environmental assessment must document that post-development recharge will be no less than predevelopment recharge when computed on an annual basis.

Commonly, the applicant offsets the loss of recharge due to impervious cover by constructing recharge basins that convey relatively pure rooftop runoff for infiltration to ground water.

The Department recommends the following (ranked in order of preference):

- 1) Preserve WRPAs as open space and parks by acquisition or conservation easement.
- 2) Limit impervious cover of new development to 20 % by right within WRPAs.
- 3) Allow impervious cover of new development to exceed 20% within WRPAs (but no more than 50% impervious) provided the applicant develops recharge facilities that directly infiltrate rooftop

runoff.

- 4) Allow impervious cover of new development to exceed 20% within WRPA's (but no more than 50% impervious) provided the applicant develops recharge facilities that infiltrate stormwater runoff from forested and/or grassed surfaces with pretreatment.

Drainage

The proposed project is in the White Oak Tax Ditch. Coordination for future maintenance is essential and the Drainage Section requests the developer and or engineer contact the White Oak Tax Ditch to ensure adequate access to the existing right-of-way is established. Alteration of the tax ditch would require a formal court order change from the White Oak Tax Ditch. The submitted plans show a proposed bridge over the Tax Ditch Main as well as lots over Prong B. The plans as shown do not account for existing drainage upstream of the project. The Drainage Section recommends White Oak Tax Ditch Prong B be open space and not owned by the individual landowners. Prong B of the White Oak Tax Ditch is required for drainage of properties along White Oak Road and Long Point Road. If the existing Prong B ditch is filled and lots are allowed to be sold as shown on the current plan, a statement should be placed on the deed that the property has a filled ditch and future drainage problems are very likely. The Drainage Section requests that all precautions be taken to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water.

Habitat

A review of the DNREC database indicates that there are currently no records of state-rare or federally listed plants, animals or natural communities at or adjacent to this project site.

However, there is an active Bald Eagle nest south of this site and because the Little River serves as a roosting and foraging area, it is strongly recommended that you maintain the forested buffer (at least 100ft, preferably 300ft) along the creek.

Revegetation

It is requested that no invasive species be used in the revegetation of disturbed areas. A list of species considered invasive in Delaware can be found on the DNHP web site, <www.dnrec.state.de.us/fw/invasive.htm>. DNREC recommends the use of native plants and their Botanist, Bill McAvoy can be contacted at (302) 653-2880 to assist you in developing a plant list.

Nuisance Species

If stormwater management ponds are included as part of the project design, it is recommended that they be landscaped to deter resident Canada geese. High concentrations of waterfowl in ponds create water-quality problems, leave droppings on lawn and paved areas and can become aggressive during the nesting season. Short manicured lawns around ponds provide an attractive habitat for these species. However, native plantings, including tall grasses, wildflowers, shrubs, and trees at the edge and within a buffer area around ponds, are not as attractive to geese because they do not feel as safe from predators and other disturbance when their view of the area is blocked. The Division of Fish and Wildlife does not provide goose control services, and if problems arise, residents or the home-owners association will have to accept the burden of dealing with these species (e.g., permit applications, costs, securing services of certified wildlife professionals). Solutions can be costly and labor intensive; however, with proper landscaping, monitoring, and other techniques, geese problems can be minimized.

Open Space

To maximize the existing buffering capacity and wildlife habitat on site, it is recommended that lot lines and other infrastructure be pulled out of the forest and areas of community open space be designated along the riparian and/or forested areas. Doing so will accomplish two things: it will preserve the existing riparian buffers on site and its value for birds and wildlife and it will create recreational opportunities for residents by allowing them access to and views of the forest and stream.

In areas set aside for passive open space, the developer is encouraged to consider establishment of additional forested areas or meadow-type grasses. Once established, these ecosystems provide increased water infiltration into groundwater, decreased run-off into surface water, air quality improvements, and require much less maintenance than traditional turf grass, an important consideration if a homeowners association will take over responsibility for maintenance of community open spaces.

Open space containing forest and/or wetlands should be placed into a permanent conservation easement or other permanent protection mechanism. Conservation areas should also be demarked to avoid infringement by homeowners.

Recreation

It is recommended that sidewalks be built fronting every residence and stub streets. A complete system of sidewalks will: 1) fulfill the recreation need for walking and biking facilities 2) provide opportunities for neighbors to interact in the community and 3) facilitate safe, convenient off-road access to neighboring communities, public mass transit stops, schools, stores, work etc. It is also recommended that a sidewalk be provided along White Oak Road.

If a trail system is planned, it is recommended that a series of stacking trail loops be designed with access points in each subdivision “pod” and connections to adjacent communities. Community trail systems with long continuous trails, perimeter-only trails, and systems with few access points, often go unused and neglected. For trail design/construction specifications, contact Susan Moerschel at (302) 739-5285.

DNREC encourages the designer/builder to involve the Dover Parks and Recreation Department in the recreation components of this project. Zack Carter can be reached at (302) 736-7050.

The Division of Parks and Recreation conducted a telephone survey of Delaware residents to gather information on outdoor recreation patterns and preferences as well as other information on their landscape perception. These findings are the foundation of the 2003-2008 Statewide Comprehensive Outdoor Recreation Plan (SCORP) providing guidance for investments in needed outdoor recreation facilities. The high and moderate facility needs in Kent County are listed below. Consideration should be given to incorporate some of these recreation opportunities into the project.

High Priorities

Walking or Jogging Paths

Bike Paths

Swimming Pools

Picnic Areas

Playgrounds

Fishing Areas

Moderate Priorities

Skate Facilities

Hiking Trails

Baseball/Softball Fields

Campgrounds

Soccer Fields

Volleyball Courts

Basketball Courts

Canoe/Kayak Access

Air Quality

Air pollution threatens the health of human beings and other living things on our planet. While often invisible, pollutants in the air create smog and acid rain, cause cancer or other serious health effects, diminish the protective ozone layer in the upper atmosphere, and contribute to the potential for world climate change. Breathing polluted air can have numerous effects on human health, including respiratory problems, hospitalization for heart or lung disease, and even premature death. Some can also have effects on aquatic life, vegetation, and animals.

Once complete, vehicle emissions associated with this project are estimated to be 38.8 tons (77,512.2 pounds) per year of VOC (volatile organic compounds), 32.1 tons

(64,174.9 pounds) per year of NO_x (nitrogen oxides), 23.7 tons (47,349.4 pounds) per year of SO₂ (sulfur dioxide), 2.1 ton (4,214.9 pounds) per year of fine particulates and 3,241.9 tons (6,483,799.3 pounds) per year of CO₂ (carbon dioxide).

Emissions from electrical power generation associated with this project are estimated to be 6.2 tons (12,390.9 pounds) per year of NO_x (nitrogen oxides), 21.5 tons (43,098.7 pounds) per year of SO₂ (sulfur dioxide) and 3,178.5 tons (6,357,061.2 pounds) per year of CO₂ (carbon dioxide).

Emissions from area sources associated with this project are estimated to be 15.6 tons (31,264.2 pounds) per year of VOC (volatile organic compounds), 1.7 ton (3,440.0 pounds) per year of NO_x (nitrogen oxides), 1.4 ton (2,854.7 pounds) per year of SO₂ (sulfur dioxide), 1.8 ton (3,683.9 pounds) per year of fine particulates and 63.4 tons (126,738.1 pounds) per year of CO₂ (carbon dioxide).

	VOC	NO _x	SO ₂	PM _{2.5}	CO ₂
Mobile	38.8	32.1	23.7	2.1	3241.9
Residential	15.6	1.7	1.4	1.8	63.4
Electrical Power		6.2	21.5		3178.5
TOTAL	54.4	40.0	46.6	3.9	6483.8

The Department of Natural Resources and Environmental Control is asking that local jurisdictions consider mitigation to help resolve this issue. Mitigation might involve limiting large new developments to growth zones, focusing development to urban areas capable of providing mass transit services, requiring more energy efficient homes which would lessen air quality impacts, and promoting walkability and bikability within and between developments and town centers.

Underground Storage Tanks

There are three inactive LUST sites located near the proposed project:

Tilcon, Facility # 1-000014, Project #'s K9405112, K9902032
Longpoint Farm, Facility # 1-000081, Project # K8507160
Garrison Farm, Facility # 1-000589, Project # K9907126

No environmental impact is expected from the above inactive/active LUST site(s). However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would be need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel in the contaminated areas.

Department of Agriculture - Contact: Mark Davis 739-4811

The Planning Section strongly opposes development of this parcel. Its location east of SR1 is problematic. DDA supports the State's long-standing land use policy of limiting residential/commercial/industrial growth east of SR1. This policy is an important underpinning to the State's overall land use plan and land use policy framework; both the plan and policies have long-term budget implications. In addition, this proposed development is located on the northern boundary of the below referenced agricultural preservation district. This district is currently in the process of permanent preservation through the purchase of an agricultural easement.

AG District Image



PROJECT ID:	K-97-08-141B
DISTRICT NAME:	CONARD EXPANSION OF SHADYBROOK FARMS DISTRICT
LEGAL OWNER:	DALE RUSTON CONARD AND JOAN L. CONARD
LOCATION:	LONG POINT ROAD OFF ROUTE 8
STREET ADDRESS:	633 LONG POINT ROAD
CITY, STATE, ZIP:	DOVER, DE, 19901
TOTAL ACREAGE:	161.9 Ac.

If this parcel were to be developed, then the below cited language from Delaware Code is applicable.

If a proposed new subdivision borders or is near an agricultural preservation district, then the owner of the preservation district is entitled to the following use protections, quoted from the Delaware Code:

§ 910. Agricultural use protections.

(a) Normal agricultural uses and activities conducted in a lawful manner are preferred and priority uses and activities in Agricultural Preservation Districts. In

order to establish and maintain a preference and priority for such normal agricultural uses and activities and avert and negate complaints arising from normal noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations, land use adjacent to Agricultural Preservation Districts shall be subject to the following restrictions:

(1) For any new subdivision development located in whole or in part within 300 feet of the boundary of an Agricultural Preservation District, the owner of the development shall provide in the deed restrictions and any leases or agreements of sale for any residential lot or dwelling unit the following notice:

“This property is located in the vicinity of an established Agricultural Preservation District in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities.”

(2) For any new subdivision development located in whole or in part within 50 feet of the boundary of an Agricultural Preservation District, no improvement requiring an occupancy approval shall be constructed within 50 feet of the boundary of the Agricultural Preservation District.

(b) Normal agricultural uses and activities conducted in accordance with good husbandry and best management practices in Agricultural Preservation Districts shall be deemed protected actions and not subject to any claim or complaint of nuisance, including any such claims under any existing or future county or municipal code or ordinance. In the event a formal complaint alleging nuisance related to normal agricultural uses and activities is filed against an owner of lands located in an Agricultural Preservation District, such owner, upon prevailing in any such action, shall be entitled to recover reasonably incurred costs and expenses related to the defense of any such action, including reasonable attorney's fees. (68 Del. Laws, c. 118, § 2.)

A forested buffer is should be maintained between the proposed subdivision and all adjacent properties in active agricultural use. In addition, a forest buffer should be maintained for those pre-existing residential properties and along all streams, wetlands, and river that border the proposed subdivision.

The developer should consider a diverse landscape plan that uses Delaware native tree and shrub species and encourages the “Right Tree for the Right Place” concept.

Public Service Commission - Contact: Andrea Maucher 739-4247

The PSC has verified that this project is in a certificated area for the City of Dover.

If Dover has not already done so, they will need to notify the Commission of the areas to which it is providing wastewater services.

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

Delaware State Housing Authority – Contact Karen Horton 739-4263

The proposal is located east of SR 1 and in an area that has been targeted for preservation. DSHA encourages land use proposals consistent with that use. Therefore, we oppose this proposal, as the location of the site appears to be inconsistent with where the State and County would like to see new residential development.

Delaware Emergency Management Agency – Contact Don Knox 659-3362

A significant impact to public safety is foreseen by implementation of this project, due to the large number of residential units and square feet of commercial buildings being constructed. The developer should notify the police, fire service, and emergency medical response organization serving the City of Dover, to keep them apprised of all development activities.

Small portions of this property are located within the Special Flood Hazard Area inundated by the 100 and 500-year flood. It is also located in an area of possible flooding from a category 3 or 4 hurricane.

Routes 1, 8, and 13 are storm evacuation routes and this development will add to the traffic volume on these routes during a coastal storm event.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

In conclusion, the State is strongly opposed to this project as presented. It is a violation of the long standing State policy of encouraging natural resource and agricultural preservation in this area of Kent County, is a clear violation of the existing Memorandum of Understanding dated April 13, 1999, and is inconsistent with Dover's certified Comprehensive Plan, as certified by this office. Every agency which has commented has serious reservations about the impacts this project will have, which leads us to conclude that while the concept seems well intended it is clearly proposed in the wrong location.

PLUS – 2004-08-09 Bay Village of Dover

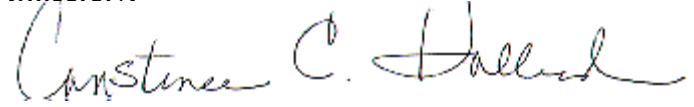
September 16, 2004

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Please be aware that if this project is approved, State funding would not be available to support this project.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in blue ink that reads "Constance C. Holland". The signature is written in a cursive style with a large, stylized "C" at the beginning.

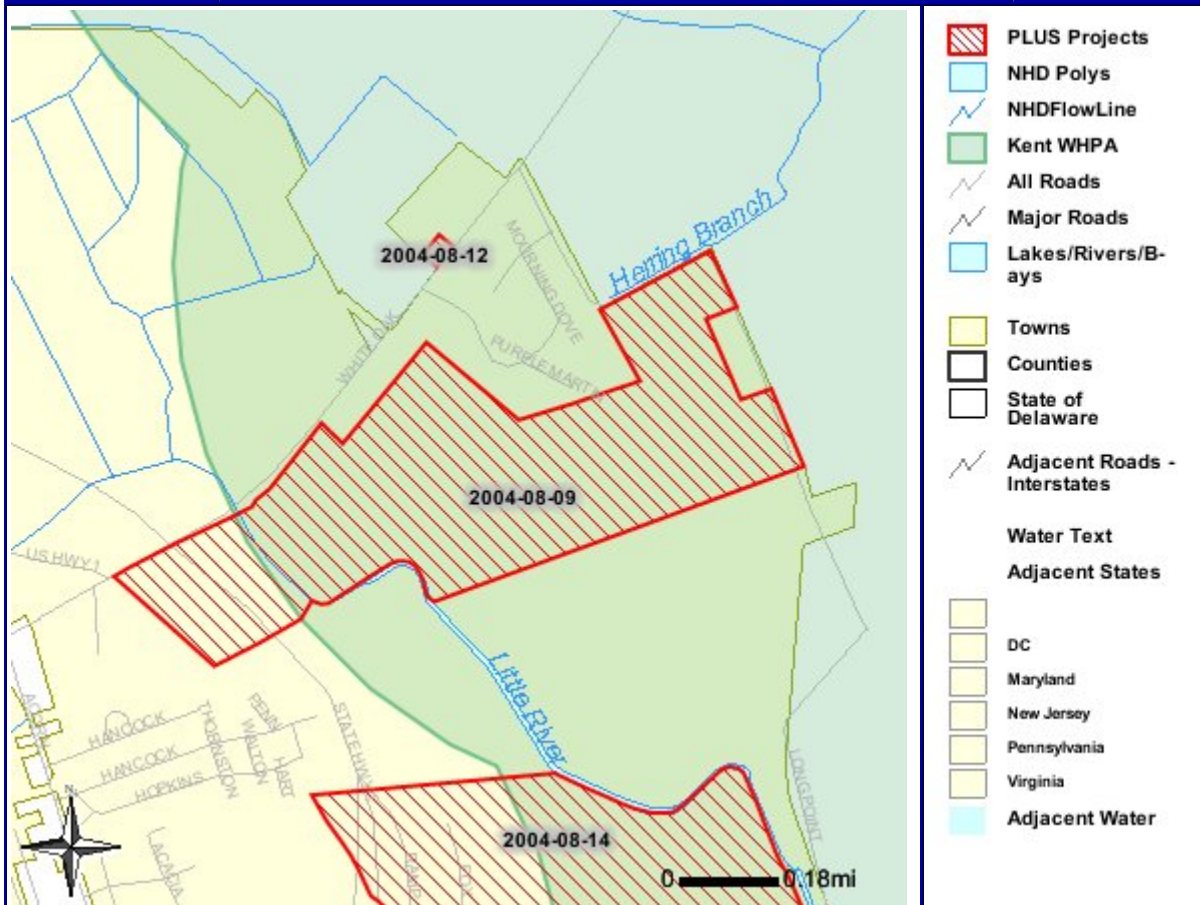
Constance C. Holland, AICP
Director

CC: City of Dover



Bay Village of Dover

2004-08-09



This map was produced by the Delaware Department of Natural Resources and Environmental Control.

